

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALLEN BOYD, *et al.*,

Plaintiffs,

vs.

YVONNE LINSAY BOYD,

Defendant.

Case No. 2:13-cv-00567-LDG-CWH

ORDER

Plaintiffs submitted an Application to Proceed *in Forma Pauperis* (#1) and Complaint on April 2, 2013. On April 3, 2013, the Court denied Plaintiff's Application to Proceed *in Forma Pauperis* (#1) without prejudice and ordered Plaintiffs to submit a new Application by May 3, 2013 or pay the required filing fee.

Pursuant to 28 U.S.C. § 1914(a), a filing fee of \$350.00 is required to commence a civil action in federal district court. The court may authorize the commencement of an action "without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefore." 28 U.S.C. § 1915(a). The Court reviewed Plaintiffs' financial affidavit and determined that Plaintiffs failed to disclose the amount of rent payments, interest, or dividends and disability or worker's compensation payments they received in the past 12 months and expect to receive in the future as required by question number three. In addition, it was unclear whether the Application was filled out by one or both Plaintiffs and whether their combined wages and expenses may be different from what was submitted. Plaintiffs failed to correct these deficiencies within the time allotted or pay the filing fee despite notice that doing so may result in dismissal of this action.

Based on the foregoing and good cause appearing therefore,

RECOMMENDATION

IT IS HEREBY RECOMMENDED that Plaintiff's Complaint (#1-1) be **dismissed with**

1 **prejudice** because Plaintiff failed to file an amended Application or pay the required filing fee by May
2 3, 2013..

3 **NOTICE**

4 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
5 writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held
6 that the courts of appeal may determine that an appeal has been waived due to the failure to file
7 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also
8 held that (1) failure to file objections within the specified time and (2) failure to properly address and
9 brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual
10 issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt*
11 *v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

12 Dated this 14th day of May, 2013.

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16 **C.W. Hoffman, Jr.**
17 **United States Magistrate Judge**
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